



**MINUTES**  
**PLAN NANAIMO ADVISORY COMMITTEE**  
**MEETING HELD TUES., 2011-SEP-20, 4:45 PM**  
**BOARD ROOM, CITY HALL, 455 WALLACE STREET**

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**PRESENT:**

Bill Holdom, Chair  
Carey Avender  
Ted Greves  
Ric Kelm  
Ralph Meyerhoff  
Meg Savory  
Randall Taylor

Brian Anderson  
Sarah Boyd  
Michael Harrison  
Shirley Lance  
Pete Sabo  
Nadine Schwager  
Clem Trombley

**REGRETS:**

Chris Cross  
Darwin Mahlum

John Hofman

**STAFF:**

Bruce Anderson, Acting Director of Planning  
Sheila Herrera, Planner, Current Planning  
Cindy Hall, Recording Secretary

**OTHERS:**

Cheryl Miller  
Dr. Lawrence Winkler  
Sister Barbara Rinehart  
Lucia Gamroth  
Kathleen Russell  
Sharon Kofoed

**1. Call to Order**

The meeting was called or order at 5:00 pm.

**2. Adoption of Minutes**

MOVED by C. Trombley, SECONDED by T. Greves that the Minutes from 2011-JUL-19 be adopted. CARRIED

**3. Approval of Agenda**

The agenda was approved as presented.

**4. Correspondence**

**5. Presentations**

**6. Information items**

**7. Old Business**

## 8. New Business

- a. RA279 – 2367 Arbot Road – Request to discharge existing Land Use Contract (LUC) and revert to the existing CC6 zone at the subject property (Westwood Tennis Club).

Chair Holdom advised that this type of application is processed in the same manner as a rezoning application, and will be subject to a public hearing.

S. Herrera introduced the application.

Cheryl Miller, one of the owners of the Westwood Tennis Club advised that she and her partners purchased the Club in 1995. They have now completed expansions to the dining room (50 seats) and kitchen. Although the facility is a private club, it has been open to the public since she and her partners bought it. They have provided programs to schools, held tournaments, and allowed the facility to be used for the BC Summer Games. They now wish to bring it in line with current zoning, as they would not be able to stay in business if the Club was prohibited to be used by the public.

### Committee Comments

The Committee inquired why the Club originally opened under a LUC, whether they are currently restricted to members, how many members they have, whether other uses would be permitted if the LUC was discharged, and if an RV park would be permitted.

S. Herrera advised that Land Use Contracts were introduced by the Provincial Government in the 1970's in order to regulate use of property. They are agreements between property owners and the local government, and because they are a different type of tool, they override zoning. They have not been available as a tool since the *Municipal Act* was abandoned.

B. Anderson added that it is difficult to speculate on why a LUC was entered into for this property. LUC's were negotiated in a very short period of history when they were permitted.

C. Miller advised that the Club is currently only allowed to be used by members (200) and guests.

S. Herrera advised that the CC6 zone is a commercial recreation zone, the general intent of which is for recreational facilities. If the LUC was discharged, some uses not permitted under the LUC would now be permissible.

C. Miller stated that an RV park is not permitted under the CC6 zone.

### Committee Comments

The Committee inquired whether area residents had been surveyed, why the application is being made now, whether it would be possible to amend the LUC rather than discharging it, and what the hours of operation of the Club are.

C. Miller replied that the kitchen is open from 11 am to 8:30 pm, and that they are licensed to serve liquor until 1 am. Most tennis players leave by 10 pm. They have spoken to many people in the area and quite a few are in favour of the application. The two adjacent neighbours are opposed. She is making the application now because a

complaint was made to the City that the Club was in contravention of the LUC by allowing it to be open to the public.

S. Herrera advised that City staff would prefer it if the LUC was discharged rather than amended in order to eliminate the old framework and bring it up to present day regulations.

The Committee inquired whether the purpose of the LUC was to control traffic flow, as per the clause respecting the "Controlled Access Highways Act".

S. Herrera advised that requiring Ministry of Highways approval is a common element of the internal processing of bylaws, and that their approval is often required for zoning bylaws.

L. Winkler, one of the adjacent neighbours, presented reasons the LUC should be retained:

- The LUC has been in place for almost 35 years (community balance).
- Quality of life will be affected if the LUC is discharged; i.e., noise/nuisance, light pollution, public safety.
- Financial consequences could include adjacent property values decreasing, adjacent tenancies being at risk, and the dilemma of client base survival.
- Process violations have occurred; i.e., adjacent neighbour deception, misrepresentation to Liquor Board, misrepresentation to City.
- There could be precedent consequences.

(brief attached)

B. Rinehart spoke as President of the Board of the Bethlehem Retreat Centre, which is adjacent to the Racquet Club. She advised the purpose of the Retreat is to provide space for people seeking a quiet place for prayer, meditation, reflection and healing. They have been a charitable society serving Nanaimo since 1987. The Centre and Racquet Club have been able to co-exist in harmony in spite of their different goals. As neighbours, one business should not negatively impact the other. The Centre embraces quiet and does not affect the Racquet Club. The Club's proposed change will, however, affect the Retreat. Traffic will increase, as will the noise level from cars and clientele. The change would make it difficult for the Retreat to offer quiet to those seeking it. If other large eating and drinking establishments have found ways to co-exist with neighbours, they should be investigated to see what made it possible. Is the Racquet Club willing to make compromises to ensure they are good neighbours such as restricting their hours, creating sound barriers, and restricting the frequency of events that draw large crowds? The LUC has worked thus far in allowing businesses to exist with neighbours and other businesses. (brief attached)

#### Committee Comments

The Committee inquired what dates the Retreat and Racquet Club opened, whether the Retreat still considers the Racquet Club to be a good neighbour, what the zoning of the Retreat is, and if anyone can join the Racquet Club as a member.

B. Rinehart advised the Retreat opened in 1987, and C. Miller advised the Racquet Club opened in 1978. B. Rinehart advised that the Racquet Club is a good neighbour except around the time of some of their events. S. Herrera advised the Retreat is zoned Community Service. C. Miller advised that anyone can join the Racquet Club.

Lucia Gamroth spoke for the Director of Bethlehem Retreat Centre who is currently out of the country. She advised that the Retreat serves a broad range of people and when asked for feedback, the importance of a quiet environment comes up regularly. Recently a guest left during construction at the Racquet Club because of the noise. The Retreat has had a good relationship with the Racquet Club, but what the present owner does and what a potential new owner does could look very different. (brief attached)

#### Committee Comments

The Committee questioned how much the noise level would increase with a 50-seat restaurant.

L. Gamroth advised that opening the restaurant to the public would increase the noise on a regular basis rather than on occasion, and that the patio extension and its proximity to the lake would enhance the noise. They are concerned about the impact this will have on those who come to the Retreat for a quiet and peaceful environment.

Kathleen Russell spoke as the owner of property across from the Racquet Club, and asked that the LUC be retained. Prior to the LUC being put in place, the neighbourhood was asked what they wanted for the area, and they supported the Racquet Club. Recently however, they were not told the restaurant would be open to the public. They would not want their tenants in the duplex they own across the street to move because of that change. The Racquet Club property was originally A2, which is a "far cry" from what it might become. She wanted to voice her disapproval of the application prior to it going to the next level, in light of what has occurred at Resort on the Lake.

She submitted letters from her tenants, Laureen Schmid and Eric Thomas, as well as from Brian Cyr, a resident in the area. (copies attached)

#### Committee Comments

B. Holdom advised that if City Council wishes to proceed with this application, a public hearing will be held as part of the process, and the people at the meeting today will have an opportunity at that time also to submit information.

The Committee inquired whether the Retreat should be responsible for a sound barrier because they moved to the area after the Racquet Club, whether the area's neighbourhood association has had any problems with the Racquet Club in the past, and if there is an opportunity for a site specific zone.

B. Rinehart replied that their cedar hedge was sufficient up until the change was done to the Racquet Club.

S. Kofoed, Westwood Lake Neighbourhood Association representative noted that Ms. Miller never contacted the neighbourhood association to try to get them on side. The association has, however, never had any problems with the Club. The CC6 zone does add more land uses than were previously in the A2 zone, and they would be available to a new owner. She also noted that traffic has increased, and inebriated people leaving the restaurant could cause problems in the neighbourhood.

B. Anderson advised that each zone in the Zoning Bylaw allows for a list of uses. He would not recommend a site specific zoning for uses on this property, but it is an option.

C. Miller stated that the Racquet Club no longer allows weddings to be held at their facility, and noted that the Retreat does host large groups.

B. Anderson commented that zoning cannot zone for people (the user), but only for use. This Land Use Contract regulates who can use property.

MOVED by M. Harrison, SECONDED by R. Meyerhoff to recommend that Council deny the application to have the Westwood Racquet Club Land Use Contract discharged, and that staff negotiate with the applicant on possible amendments to the Land Use Contract. DEFEATED

MOVED by N. Schwager, SECONDED by C. Trombley to recommend that Council approve the application to have the Westwood Racquet Club Land Use Contract discharged. CARRIED

9. NEXT MEETING

The next regular meeting date is Tuesday, 2011-OCT-18.

10. ADJOURNMENT

The meeting adjourned at 6:00 pm.

Reasons to retain and maintain the current Land Use contract governing 2367 Arbot Road:

**1. PROVENANCE**

COMMUNITY BALANCE FOR OVER 35 YEARS

**2. QUALITY OF LIFE (QOL) CONSEQUENCES**

- a. NOISE/ NUISANCE
- b. LIGHT POLLUTION
- c. PUBLIC SAFETY

**3. FINANCIAL CONSEQUENCES**

- a. ADJACENT PROPERTY VALUES
- b. ADJACENT TENANCIES AT RISK
- c. DILEMMA OF CLIENT BASE SURVIVAL

**4. PROCESS VIOLATION CONSEQUENCES**

- a. ADJACENT NEIGHBOUR DECEPTION
- b. MISREPRESENTATION TO LIQUOR BOARD
- c. MISREPRESENTATION TO CITY

**5. PRECEDENT CONSEQUENCES**

To: Plan Nanaimo Advisory Committee (PNAC)  
From: Benedictines of Nanaimo  
Date: September 19, 2011

My name is Sister Barbara Rinehart and I reside at the House of Bread Monastery located at 2329 Arbot Road. Tonight I am speaking as the President of the Board of the Bethlehem Retreat Centre which is located at 2371 Arbot Road. The Bethlehem Retreat Centre is owned and operated by the Benedictines of Nanaimo.

The Bethlehem Retreat Centre is an ecumenical retreat centre open to people of all faiths. Its purpose is to provide space for those seeking a quiet place for prayer, for meditation, for reflection and for healing. People come for a day at a time, a week at a time, even a month at a time seeking a place of quiet in their busy lives. We are a charitable Society and have been serving the people of Nanaimo and beyond since 1987.

The Bethlehem Retreat Centre is located next door to the Westwood Racquet Club. To this point in time these two businesses have been able to co-exist as neighbours in relative harmony despite their different goals.

There is an expectation that one business should not negatively impact another. Because the Bethlehem Retreat Centre is open to people seeking a place to reflect and meditate, it is by its very nature a place that embraces quiet and does not negatively impact the Westwood Racquet Club. We oppose changing the existing land use contract because changing it will create the potential for a negative impact on the Bethlehem Retreat Centre by the Westwood Racquet Club.

Changing the land use contract will open the Racquet Club's eating and drinking establishment to the general public as well as to large event gatherings throughout the year. This will increase the amount of traffic on Arbot Road and substantially increase the noise level both from cars and clientele. It will change the face of the neighbourhood as well as the relatively quiet atmosphere that has existed to this point.

We are concerned that the proposed change, should it be accepted, will make it very difficult, if not impossible, for the Bethlehem Retreat Centre to continue to provide an atmosphere of quiet for those who are seeking it in their lives. The increase in the volume of noise from people and cars in late night and early morning hours will negatively affect those staying overnight at the Retreat Centre

I'd like to end with two questions. Are there other large eating and drinking establishments situated in the heart of a neighbourhood that have found a way to co-exist with residents of the neighbourhood and other businesses who may be in operation nearby? If there are, I think these should be investigated before considering a possible change to the existing land use contract. If they do exist together in relative peace, what made it possible?

If Westwood Racquet Club hopes to be successful in changing the land use contract are they willing to make compromises to insure they are good neighbours including the possibility of limiting their hours of operation, creating a sound barrier and restricting the frequency of events that draw large crowds?

It is my hope that these questions will be explored before there is any decision made regarding the proposal to change the present land use contract that has worked thus far and has allowed the neighbourhood to coexist in relative peace between businesses and among neighbours.

To: Plan Nanaimo Advisory Committee (PNAC)  
From: Bethlehem Retreat Centre  
Date: September 20, 2011

Regarding: Request to discharge existing Land use Contract and revert to the existing CC6 zone at Westwood Tennis Club

My name is Lucia Gamroth, I am a home owner and resident in the Westwood neighbourhood. I am here tonight representing the Director of the Bethlehem Retreat Centre, Sr. Mary Ann Gisler, who is presently out of the country. I am not a member of the Benedictines of Nanaimo but I volunteer at the Bethlehem Retreat Centre as a member of the Advisory Committee, overlook the financial management, and work with the director and others on program planning and marketing. I am speaking, tonight, at the request of the Director, in opposition to the request to discharge the existing Land use Contract and revert to the existing CC6 zone at Westwood Tennis Club

First I will set a context for our opposition. Persons and/or groups that come to the Centre represent varied spiritual paths from Christian, Buddhist, and Hindu traditions to those who would describe themselves as spiritual but not connected with established traditions. One of these groups comes for a week at a time and completely fills every available space at the Centre. Essential to most of these groups is space and quiet that supports reflection, journaling, and meditative walking, and/or prayer in the natural environment. We also have individuals who come to the Centre for some time away from the everyday busyness and demands of life. These individuals may represent young mothers who need a bit of time for themselves, individuals dealing with a loss of family/friend in their life, writers who want uninterrupted space and time, or simply persons who find nourishment and encouragement at a place like the Bethlehem Retreat Centre.

An essential element in meeting the needs of those who come to the Centre is receiving feedback from people about their stay at the Centre. We collect such feedback on a regular basis. One of the things people are most looking for and most appreciating about the Bethlehem Retreat Centre is the quiet and reflective environment that they find when they come. Quiet not only enhances our operations; it is an essential part of our operations. This can be demonstrated by the fact that one person left the Centre after only one day specifically because of noise during construction at the Tennis Club.

The Bethlehem Retreat Centre Director and I met with the owners of the Tennis Club several months ago and expressed our concern about noise related to their request for increasing the numbers of persons to whom they could serve liquor to accommodate their new dining room and patio (see council attachment June 2011). For the most part, the Centre has had a good



working relationship with its neighboring business that is licensed to serve Tennis Club members only. On occasion that has been problematic because of the noise level with large gatherings. Our concern, at this time, is that opening the Bistro to the public will increase the noise on a regular basis rather than on occasion. The proximity to Westwood Lake only enhances that noise at a time of day when most neighbourhoods are settling into the quiet of the evening. Our primary concern is the impact this will have on those who come to the Centre for quiet and a peaceful environment and for that reason we oppose the status change.

# WISH-SHA M.H. PARK LTD.

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2011-09-19

planNanaimo Advisory Committee

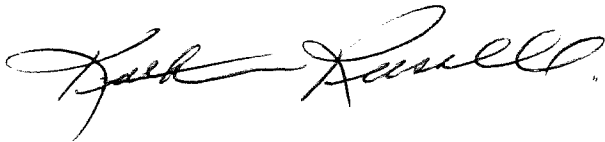
I am here tonight to ask that the Land Use Contract stay in place for the Westwood Tennis Club as at the time of this contract the neighbourhood was asked their opinion and replied at that time what we wanted for this area. We as a neighbourhood have supported this endeavour and now feel as if we were not given the correct information in regards to a recent application for extra seating for this establishment. At no time were we told of any changes in regards to the running of a restaurant for the general public. As a property owner across the street I find the thought of a restaurant and the extra noise and late night opening available distressing.

We have owned this 2 ½ acre parcel since June 1979, have had a duplex occupancy permit since 1982. Our tenants have both been there for over 10 years and we would not want either of them to have to move because of any problems generated from a change in use of the Westwood Tennis Club.

We have always hoped to build some kind of retirement complex on our property and because there is a restaurant and license outlet within ½ km we do not think this change in zoning to be needed in our area. The original zoning was A2 a far cry from the existing zoning if this request is passed.

I would ask if I might read letters from our tenants at this time?

Thanking you

A handwritten signature in black ink, appearing to read 'Kathleen Russell', with a stylized, flowing script.

Kathleen Russell

2320 Arbot Road

Nanaimo BC

250 754-7945

To Whom it may concern:

Aug 19/11

I am writing in response to the proposed publicization of the Nanaimo Racquet Club Restaurant. Since the liquor license was passed I have been concerned with the amount of traffic to and from the club. Cars often speeding in and out with seemingly little awareness of the 3 year old child playing in the front yard across the street. Overflow parking is spilling out onto the street lining both sides at times. Dogs are tied up outside campers etc, left to bark continuously. In addition to the safety concerns this additional patronage will incur, I also fear I will be unable to open my windows on hot summer nights because of the increased noise pollution. For the above stated reasons, I am opposed to the Publicization of the restaurant at the Nanaimo Racquet Club.

Sincerely  
Laureen Schmid  
Laureen Schmid  
2360 Arbot Rd.

To Whom It May Concern,

I have been a resident at 2364 Arbot Rd for ten and a half years. In this time I have experienced more than a few dangerous (or potentially dangerous) situations regarding the Westwood Racquet Club and the traffic coming and going on a frequent basis. As it is, people have already portrayed aggressive and unsafe driving techniques to simply get in and out of the parking lot, and being right across the street from my driveway it causes problems more often than is necessary.

I strongly protest against the idea of a public restaurant and/or pub being placed in this location as it would only further congest traffic and make it altogether hazardous for my young family members. They often play outside in the yard, and if there is traffic coming and going at all hours it is bound to become a worrisome place to have children. Asides from this, the noise that would emanate from this restaurant/pub would be hindering to say the least as my younger sister is only in high school and would most likely have difficulties sleeping through the sounds of possibly intoxicated people and vehicles arriving and leaving late at night.

The reason I have stayed with my family in this area for such an extended period of time is simply for the fact that it is a quiet, safe and friendly neighbourhood that we have always felt comfortable in. The placement of such a business in this quiet area would throw off that appeal entirely and make it a very undesirable place to inhabit, especially as I am directly across the street from this proposed location.

Thank you so much for your time and I hope that this is seriously reconsidered, especially in respect to all the families and children that occupy this neighbourhood besides just my own.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Thomas", with a stylized flourish at the end.

Eric Thomas

Brian Cyr  
2339 Arbot Road  
Nanaimo, B.C.

To the City of Nanaimo Community Safety and Development Office, and planners.

I live at 2339 Arbot Road and have concerns in regards to applicant Cheryl Miller and the land use contract discharge application proposal. I am not in favour of the land use contract application proposal. I have concerns about the extra noise and traffic that would occur in the neighbourhood and know that it would negatively affect the neighbourhood. The extra late night noise would negatively affect the peacefulness of this neighbourhood. The extra traffic would be a safety concern, especially on clear winter nights when Westwood and Arbot Roads "glaze up" with ice after dark. Please consider my concerns and concerns of the neighbourhood regarding this land use contract discharge application by Cheryl Miller. Thank you for your time and thoughtful consideration on these matters.

Sincerely,

A handwritten signature in black ink that reads "Brian Cyr". The signature is written in a cursive, flowing style with a large, stylized "B" and "C".

Brian Cyr